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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

JUN 27 2001

In the Matter of

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

ILLINOIS CONSOLIDATED TELEPHONE COMPANY  
ODIN TELEPHONE EXCHANGE, INC.

File No

CC-96-45

Petition for Waiver of the Definition of "Study Area" Contained  
in Part 36, Appendix-Glossary of the Commission's Rules

TO: Chief, Common Carrier Bureau

**JOINT PETITION FOR STUDY AREA WAIVER**

Illinois Consolidated Telephone Company ("ICTC") and Odin Telephone Exchange, Inc. ("Odin") (collectively, "Petitioners"), by their attorney, hereby jointly request waiver of the definition of "study area" contained in the Appendix-Glossary of Part 36 of the Commission's Rules.<sup>1</sup> The purpose of this waiver is to permit the sale of the assets of the Oblong and Martinsville, Illinois, telephone exchanges by ICTC to Odin, the removal of the Oblong and Martinsville exchanges from ICTC's existing Illinois study area, and the addition of the Oblong and Martinsville exchanges to Odin's existing Illinois study area,

**BACKGROUND**

The Oblong exchange (approximately 1,559 access lines) is located in Crawford County in rural east central Illinois. The Martinsville exchange (approximately 1,131 access lines) is located in Clark County, also in rural east central Illinois.

<sup>1</sup> The original of this Petition is being filed in Pittsburgh, PA. Copies of the Petition are being hand-delivered to the Secretary, Federal Communications Commission; and to the Chief, Accounting Policy Division.

ICTC is an Illinois corporation that is not under common ownership or control with Odin. It is a pre-February 8, 1996 incumbent local exchange carrier that presently serves 37 exchanges (approximately 88,000 access lines) in its existing Illinois study area (including the approximately 2,690 access lines in the Oblong and Martinsville exchanges). ICTC is a rate-of-return carrier that operates on a cost basis. ICTC has never operated any of its exchanges (including the Oblong and Martinsville exchanges) on a price cap basis. ICTC is the Issuing Carrier for Illinois Consolidated Telephone Company Tariff F.C.C. No. 2. It is a participant in the National Exchange Carrier Association's ("NECA's") Common Line pool. During calendar year 2000 and the first five months of calendar year 2001, ICTC has received no high-cost loop support from the Universal Service Fund ("USF") for the Oblong and Martinsville exchanges. ICTC is a rural telephone company under the definition in Section 3(37) of the Communications Act and Sections 51.5 and 54.5 of the Commission's Rules, and has filed the required self-certification with the Commission.

Odin is an Illinois corporation that is not under common ownership or control with ICTC. It is a pre-February 8, 1996 incumbent local exchange carrier that presently serves two exchanges (approximately 1,158 total access lines) in its existing Illinois study area. These two exchanges are the Odin exchange in Marion County and the Shobonier exchange in Fayette County. Odin is a rate-of-return carrier that operates on a cost basis, and that has never operated any of its exchanges on a price cap basis. Odin is an Issuing Carrier in ICORE, INC. Tariff F.C.C. No. 1. It is a participant in NECA's Common Line pool. Odin is a rural telephone company under the definition in Section 3(37) of the Communications Act and

Sections 51.5 and 54.5 of the Commission's Rules, and has filed the required self-certification with the Commission.

### **COMPLIANCE WITH "ONE PERCENT" CONDITION**

Petitioners certify that the aggregation of all local telephone exchange transfers and study area waivers involving them and their subsidiaries and affiliates during 2001 will not cause a shift in USF cost recovery in an amount equal to or greater than one percent of the total USF assistance for 2001. Therefore, to the extent that the "one percent" limitation adopted by the Commission in US West Communications, Inc. and Eagle Telecommunications, Inc., 10 FCC Rcd 1771 (1995), remains relevant and applicable, the subject transaction complies with it.

### **STUDY AREA WAIVER**

The Commission froze study area boundaries as of November 15, 1984 to prevent telephone holding companies from setting up high cost exchanges within their existing service territories as separate companies in order to maximize high cost support. MTS/WATS Market Structure, 57 R.R.2d 511 (1984). The Commission expressly stated at the time that study areas were **not** frozen to "discourage the acquisition of high cost exchanges or the expansion of service to cover high cost areas." Amendment of Part 67, 49 Fed. Reg. 48325, 48337 (Dec. 12, 1984). Consequently, allowing Odin to acquire the Oblong and Martinsville exchanges from ICTI will not conflict with the Commission's rationale for freezing study area boundaries.

In reviewing study area waiver petitions, the Commission employs the following three-prong standard: (1) the change in study area boundaries must not adversely affect the universal service fund; (2) no state commission having regulatory authority over the transferred exchanges may oppose the transfer; and (3) the transfer must be in the public interest. See, e.g., US West Communications, Inc. and South Central Utah Telephone Association, Inc., 9 FCC Rcd 198 (1993); US West Communications, Inc. and Triangle Telephone Cooperative Association, Inc. et al., 9 FCC Rcd 202 (1993); US West Communications, Inc. and Nemont Telephone Cooperative, Inc., 9 FCC Rcd 721 (1994); GTE Southwest Incorporated and Pioneer Telephone Cooperative, Inc., 9 FCC Rcd 7785 (1994); US West Communications, Inc. and Eagle Telecommunications, Inc., *supra*; CenturyTel of Northwest Arkansas, LLC et al. and GTE Arkansas Incorporated et al., 15 FCC Rcd 25437 (2000); Citizens Telecommunications Company of North Dakota and US West Communications, Inc., 15 FCC Rcd 12916 (2000); Rye Telephone Company, Inc. and US West Communications, Inc., 15 FCC Rcd 18738 (2000); Spectra Communications Group, LLC and GTE Midwest Incorporated, 15 FCC Rcd 13214 (2000); CenturyTel of Central Wisconsin, LLC and GTE North Incorporated, 15 FCC Rcd 15043 (2000); Telephone USA of Wisconsin, LLC and GTE North Incorporated, 15 FCC Rcd 15032 (2000); Sully Buttes Telephone Cooperative, Inc. and Qwest Corporation, 15 FCC Rcd 18810 (2000); and Valor Telecommunications of Texas, LP and GTE Southwest Incorporated, 15 FCC Rcd 15816 (2000).

**Universal Service Fund.** The proposed study area boundary changes will not adversely affect the Universal Service Fund. Section 54.305(a) of the Commission's Rules

provides that a rural carrier acquiring exchanges from an unaffiliated carrier shall receive the same per-line levels of high-cost universal service support for which the acquired exchanges were eligible prior to the transfer. The rural carrier will receive this per-line support for the acquired exchanges regardless of the types and amounts of support that it may receive for its preexisting exchanges.

The operation of Section 54.305(a) means that Odin will receive the same per-line levels of high-cost universal service support for the Oblong and Martinsville exchanges that ICTC was eligible to receive for these exchanges prior to the closing of the proposed exchange sale. Hence, Section 54.305(a) ensures that there can be no adverse impact on the USF from the subject Oblong and Martinsville exchange transaction and the proposed study area boundary changes. See Valor Telecommunications of Texas, LP and GTE Southwest Incorporated, supra.

Odin is aware that it may become eligible for the "safety valve loop cost expense adjustment" recently established in Sections 54.305(b) through (f) of the Commission's Rules if and when it makes certain post-transaction investments to enhance the infrastructure of, and improve the service in, the Oblong and Martinsville exchanges. Odin will comply with all applicable accounting, allocation and notice requirements in Sections 54.305(b) through (f).

Petitioners note further that the overall size of the high-cost loop fund and of the aggregate safety valve loop cost expense adjustments are limited by the caps adopted in the Commission's recent order adopting modifications to its high-cost universal service support mechanisms for rural telephone companies. Fourteenth Report And Order,

Twenty-Second Order On Reconsideration, And Further Notice Of Proposed Rulemaking In CC Docket No. 96-45, And Report And Order In CC Docket No. 00-256 (Federal-State Joint Board on Universal Service), CC Docket Nos. 96-45 and 009-256, FCC 01-157, released May 23, 2001.

**State Commission Approval.** Petitioners expect to move during the next week for an Interim Order from the Illinois Commerce Commission ("ICC"), indicating that the ICC has no objection to the Commission's grant of the proposed study area waiver. The ICC earlier this year declared that it had no objection to a similar study area waiver involving the sale of two Illinois exchanges, Madison Telephone Company and Gallatin River Communications, LLC, DA 01-1333, released May 31, 2001, and Petitioners have no reason to believe that the ICC will object to the present proposed study area waiver.

The present petition is being filed at this time because Illinois counsel for Petitioners needs a receipt copy of it for attachment to his motion to the ICC for an Interim Order. This procedure was permitted by the Commission in Madison Telephone Company and Gallatin River Communications, LLC, *supra* (Joint Petition for Study Area Waiver filed February 23, 2001; document indicating ICC non-objection submitted as an ex parte filing on May 14, 2001).

**Public Interest Benefits.** Odin, like ICTC, is an established local exchange carrier with a length and proven record of providing high-quality telecommunications facilities and services to the residents and businesses of rural Illinois. Odin strongly desires to expand its operations into the Oblong and Martinsville areas (which are not contiguous with ICTC's other

Illinois exchanges), and will be very responsive to the present and future telecommunications needs of Oblong and Martinsville residents. Hence, the proposed study area waiver will serve the public interest.

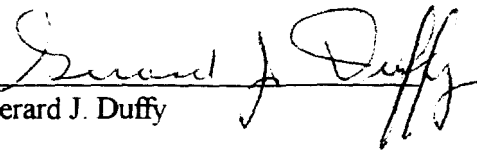
**June 21, 1995 Public Notice.** As detailed above, the operation of Section 54.305(a) of the Commission's Rules means that, by definition, there can be no adverse impact on the USF from the subject transactions and proposed study area boundary changes. Hence, it appears that the supplemental information requested by the Bureau in its Public Notice ("Common Carrier Bureau Establishes Expedited Processing Procedures For Petitioners Seeking Part 36 Study Area Waivers"), 10 FCC Rcd 13228 (1995), is no longer necessary or relevant, because it deals with universal service support impact calculations that no longer need to be made. Petitioners note that several recent study area waiver petitions have been accepted, processed and granted without this supplemental information. See Valor Telecommunications of Texas, LP and GTE Southwest Incorporated, supra; ATEAC, Inc., 16 FCC Rcd 849 (2001). Petitioners will amend this petition if the Bureau determines that some or all of this supplemental information remains necessary and relevant.

### **CONCLUSION**

Petitioners have met, or will soon meet, their burden of proving that the proposed waivers of study area boundaries: (a) will not adversely affect the Universal Service Fund; (b) are not opposed by the only state commission having regulatory authority over the transferred exchanges; and (c) will be in the public interest. Therefore, the Bureau is respectfully requested

to waive its freeze of study area boundaries to allow the Oblong and Martinsville, Illinois exchanges to be deleted from ICTC's existing Illinois study area and added to Odin's existing Illinois study area.

Respectfully submitted,  
**ILLINOIS CONSOLIDATED TELEPHONE COMPANY**  
and  
**ODIN TELEPHONE EXCHANGE, INC.**

By   
Gerard J. Duffy

Their Attorney

Blooston, Mordkofsky, Dickens, Duffy & Prendergast  
2120 L Street, NW (Suite 300)  
Washington, DC 20037  
(202) 659-0830

Dated: June 27, 2001



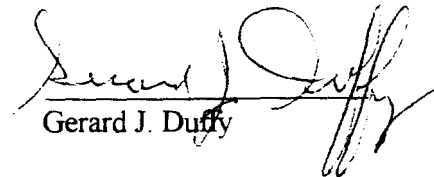
**CERTIFICATE OF SERVICE**

I hereby certify that I am a partner of the law firm of Blooston, Mordkofsky, Dickens, Duffy & Prendergast, and that on this 27th day of June, 2001, I sent via hand delivery copies of the foregoing JOINT PETITION FOR STUDY AREA WAIVER to:

Dorothy Attwood, Chief  
Common Carrier Bureau  
445 12th Street, S.W. (Room 5-C450)  
Washington, DC 20554

Katherine L. Schroder, Chief  
Accounting Policy Division  
Common Carrier Bureau  
445 12th Street, S.W. (Room 5-A426)  
Washington, DC 20554

ITS  
1231 20th Street, NW  
Washington, DC 20036

  
Gerard J. Duffy

INVOICE DATE	INVOICE NO.	DESCRIPTION	INVOICE AMOUNT	NET PAYABLE
06/15/01	06/15/01	FILING FEE	6220.00	6220.00
			TOTAL	TOTAL
			6220.00	6220.00

"1000003740" 1:0611127881: 3299983025"

READ INSTRUCTIONS CAREFULLY  
BEFORE PROCEEDING

FEDERAL COMMUNICATIONS COMMISSION  
REMITTANCE ADVICE

Approved by OMB

3060-0589

Page No 1 of 1

(1) LOCKBOX #

358140

SPECIAL USE

FCC USE ONLY

SECTION A - PAYER INFORMATION

(2) PAYER NAME (if paying by credit card, enter name exactly as it appears on your card)

FairPoint Communications, Inc.

(3) TOTAL AMOUNT PAID (U.S. Dollars and

\$6,220.00

(4) STREET ADDRESS LINE NO. 1

PO Box 199

(5) STREET ADDRESS LINE NO. 2

(6) CITY

Dodge City

(7) STATE

KS

(8) ZIP CODE

67801

- 0199

(9) DAYTIME TELEPHONE NUMBER (include area code)

(316) 227-4400

(10) COUNTRY CODE (if not in U.S.A.)

FCC REGISTRATION NUMBER (FRN) AND TAX IDENTIFICATION NUMBER (TIN) REQUIRED

(11) PAYER (FRN)

(12) PAYER (TIN)

133725229

IF PAYER NAME AND THE APPLICANT NAME ARE DIFFERENT, COMPLETE SECTION B  
IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C)

(13) APPLICANT NAME

Odin Telephone Exchange, Inc.

(14) STREET ADDRESS LINE NO. 1

PO Box 199

(15) STREET ADDRESS LINE NO. 2

(16) CITY

Dodge City

(17) STATE

KS

(18) ZIP CODE

67801

- 0199

(19) DAYTIME TELEPHONE NUMBER (include area code)

(316) 227-4400

(20) COUNTRY CODE (if not in U.S.A.)

FCC REGISTRATION NUMBER (FRN) AND TAX IDENTIFICATION NUMBER (TIN) REQUIRED

(21) APPLICANT (FRN)

(22) APPLICANT (TIN)

370653422

COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET

(23A) CALL SIGN/OTHER ID

(24A) PAYMENT TYPE CODE

(25A) QUANTITY

BEA

1

(26A) FEE DUE FOR (PTC)

\$6220.

(27A) TOTAL FEE

\$6220.

FCC USE ONLY

(28A) FCC CODE 1

(29A) FCC CODE 2

(23B) CALL SIGN/OTHER ID

(24B) PAYMENT TYPE CODE

(25B) QUANTITY

(26B) FEE DUE FOR (PTC)

(27B) TOTAL FEE

FCC USE ONLY

(28B) FCC CODE 1

(29B) FCC CODE 2

SECTION D - CERTIFICATION

(30) CERTIFICATION STATEMENT

I, Gerard J. Duffy, certify under penalty of perjury that the foregoing and supporting information is true and correct to

the best of my knowledge, information and belief.

SIGNATURE

DATE

SECTION E - CREDIT CARD PAYMENT INFORMATION

(31)

MASTERCARD/VISA ACCOUNT NUMBER:

EXPIRATION

☐ MASTERCARD

☐ VISA

I hereby authorize the FCC to charge my VISA or MASTERCARD for the service(s)/authorization herein described.

SIGNATURE

DATE